



A consumer is the important visitor on our premises.
He is not dependent on us. We are dependent on him.
-Mahatma Gandhi

TAMIL NADU ELECTRICITY OMBUDSMAN

4th Floor, SIDCO Corporate Office Building, Thiru-vi-ka Industrial Estate,
Guindy, Chennai – 600 032.

Phone : ++91-044-2953 5806,044-2953 5816 Fax : ++91-044-2953 5893

Email : tneochennai@gmail.com Web site : www.tnerc.gov.in

Before The Tamil Nadu Electricity Ombudsman, Chennai

Present : Thiru. N.Kannan, Electricity Ombudsman

A.P.No. 56 of 2024

Thiru S.S. Sankar,
No. 31C, Pidari North Street,
Sirkali – 609 110,
Mayiladuthurai District.

. Appellant
(Thiru S.S. Sankar)

Vs.

1. The Executive Engineer/O&M/Sirkali,
Nagapattinam Electricity Distribution Circle,
TANGEDCO,
Thenpathi, Sirkali-609 110.

2. The Assistant Executive Engineer/O&M/Sembanarkovil,
Nagapattinam Electricity Distribution Circle,
TANGEDCO,
1, 46-5,Lathif Colony, Main Road,
Parasalur, Sembanarkovil - 603 309.

3. The Assistant Engineer/O&M/ Thirukadaiyur,
Nagapattinam Electricity Distribution Circle,
TANGEDCO,
2, 147,Tharangambadi Main Road,
Thirukadaiyur -609 311.

. . . . Respondents
(Thiru G.Vallimanalan, EE/O&M/Sirkali
Thiru C.Saravanan,AEE/O&M/Sembanarkovil
Thiru P.Senthilkumar, AE/O&M/Thirukadaiyur)

Petition Received on: 30-07-2024

Date of hearing: 18-09-2024

Date of order: 27-09-2024

The Appeal Petition received on 30.07.2024, filed by Thiru S.S. Sankar, No. 31C, Pidari North Street, Sirkali – 609 110, Mayiladuthurai District was registered as Appeal Petition No. 56 of 2024. The above appeal petition came up for hearing before the Electricity Ombudsman on 18.09.2024. Upon perusing the Appeal Petition, Counter affidavit, written argument, and the oral submission made on the hearing date from both the parties, the Electricity Ombudsman passes the following order.

ORDER

1. Prayer of the Appellant:

The Appellant has prayed to reimburse the average paid amount during the meter defective period.

2.0 Brief History of the case:

2.1 The Appellant has prayed to reimburse the average paid amount during the meter defective period in SC No. 557-004-488.

2.2 The Respondent has stated that the SC No. 557-004-488 is defective as the meter has been recorded as defective (Meter Burnt). Hence the amount calculated by the Audit wing is correct.

2.3 Hence the Appellant has filed a petition with the CGRF of Nagapattinam EDC on 05.01.2024 to refund the amount collected from him.

2.4 The CGRF of Nagapattinam EDC has issued an order dated 30.05.2024. Aggrieved over the order, the Appellant has preferred this appeal petition before the Electricity Ombudsman.

3.0 Orders of the CGRF :

3.1 The CGRF of Nagapattinam Electricity Distribution Circle issued its order on 30.05.2024. The relevant portion of the order is extracted below: -

“Order:

மனுதாரரின் கோரிக்கை மற்றும் எதிர்மனுதாரரின் பதிலுரை ஆகியவை குறைதீர் மன்றத்தில் பரிசீலிக்கப்பட்டது.

மனுதாரர் சமர்ப்பித்த ஆவணங்களை ஆய்வு செய்ததில் தணிக்கை காலத்தில் மின் பயன்பாடு குறைவாக இருந்ததற்கான ஆதாரமாக ஏற்றுக்கொள்ளத்தக்க வகையில் எதுவும் சமர்ப்பிக்கவில்லை. மனுதாரர் 12.06.2019 மற்றும் 13.06.2019 ஆகிய நாட்களில் இறால் குஞ்சுகள் (*Litopenaeus vannamei*) வாங்கியதாக ரசீதுகள் சமர்ப்பித்துள்ளதால் தணிக்கை காலமான 07/2019 முதல் 09/2019 வரை மின் பயன்பாடு அதிகமாக இருந்திருக்கவே வாய்ப்பிருப்பதாகவும் தெரியவருகிறது. எதிர்மனுதாரர் சமர்ப்பித்த அருகாமை மின் இணைப்பின் (557-004-1166) தணிக்கை கால மின் பயன்பாட்டு தரவுகளும் மனுதாரர் கூறுவது போல மின் பயன்பாடு குறைவாக இருந்தது என்பதை நிரூபிக்கும் வகையில் இல்லை. எனவே மனுதாரரின் கோரிக்கையை இம்மின் நுகர்வோர் குறைதீர் மன்றம் நிராகரித்து மேற்கண்ட தணிக்கை தொகையில் எவ்வித மறு ஆய்வும் செய்ய இயலாது எனத் தீர்ப்பளித்து இம்மனுவை இத்துடன் முடித்து வைக்கிறது.”

4.0 Hearing held by the Electricity Ombudsman:

4.1 To enable the Appellant and the Respondent to put forth their arguments, a hearing was conducted on 18.09.2024 through Video Conferencing.

4.2 The Appellant Thiru S.S. Sankar attended the hearing and put forth his arguments.

4.3 The Respondents Thiru G.Vallimanan, EE/O&M/Sirkali, Thiru C.Saravanan, AEE/O&M/Sembanarkovil and Thiru P.Senthilkumar, AE/O&M/ Thirukadaiyur of Nagapattinam Electricity Distribution Circle attended the hearing and put forth his arguments.

4.4 As the Electricity Ombudsman is the appellate authority, only the prayers which were submitted before the CGRF are considered for issuing orders. Further, the prayer which requires relief under the Regulations for CGRF and Electricity Ombudsman, 2004 alone is discussed hereunder.

5.0 Arguments of the Appellant:

5.1 The Appellant has stated that the Petitioner is the Proprietor of GANESH AQUA FARM at Vepancherry, Pillai Perumual, Tharangampadi Taluk, Mayiladuthurai district and residing at No:31 C-Pidari North Street, Sirkazhi-609 110, as such he is well aware of the facts and circumstance of the petition. This petition

is filed for setting aside the communication dated 30.08.2023 issued by the 2nd Respondent in எண்.உ.மி.பொ/இ.ப./திருக்கடையூர்/கோ-தணிக்கை /க.எண்/2023 dated 30.08.2023.

5.2 The Appellant has stated that he owns the above coastal Aqua culture farm and registered his farm with the Ministry of Fishery. Animal husbandry and dairying, Government of India and obtained registration in No.TN-II-2007(0601)/61-1(740)/2012. The 2nd Respondent has extended electric service to my farm under service connection No.06-557-004-488.

5.3 The Appellant has further stated that he is a regular payer of electricity charger and he never defaulted any bill. The nature of Aqua Culture Farm business is seasonal. Normally the farm will be active from the month of January to June, whereby the consumption of power would be maximum. When culture is undergoing the power is used for aerator, water pump etc. Once harvest is done in the month of June, during July to August the farm will be under preparations, whereby only lighting load will be used. Farm activities will once again start from September to December.

5.4 The Appellant has also contended that in anticipation of addition of farms he sought for increase of load capacity by his letter dated 10.05.2019 and also paid necessary fees for the said purpose. He also intimated to the authorities about the lean period and requested to not to give additional load during the lean period ie. July to September vide his letter dated 26.06.2019, whereby he informed that the Petitioner will not be using the electricity for next 3 Months and also intimated that the meter was not functioning and requested to levy minimum charges during farm non- functional period.

5.5 The Appellant has also stated that when the 2nd Respondent officials came for recording the meter reading, during July 2019, they also noticed the minimum usage of power i.e., for lighting alone. They confirmed that a new meter will be fixed facilitating the additional load proposed after due procedure. The Petitioner was informed by the 2nd Respondent that due to the non-availability of the LTCT meter,

the MRT authority took some time to fix the new meter. A new meter was fixed on 15.10.2019. 2nd Respondent confirmed that the charges for lean period would be levied accordingly by taking into account the meter reading for the same period in the previous years and assured the petitioner to not to worry.

5.6 The Appellant has stated that the internal audit officer attached to Audit Branch/TANGEDCO, Trichy Region in Audit Slip No.157/ dated 21.03.2022 has taken average unit consumed during peak season i.e. March 2019 to June 2019 and levied a hefty charges for meter non-functional period to the tune of Rs.4,62,401/-. The 2nd Respondent issued a demand letter in similar line by his letter dated எண். உ.மி.பொ/இப/திருக்கடையூர்/கோ-தணிக்கை/க.எண் 03/2022 dated 12.04.2022.

5.7 The Appellant has contended that aggrieved by the said demand the Petitioner requested the 2nd Respondent with actual fact and requested him to calculate charges as per his consumption pattern of previous years and in the light of the letter dated 20.06.2019 wherein he has already intimated that he would not be using power for next 3 months due to non-operation of farm. It appears that the 2nd Respondent has written to the Asst. Executive Engineer, Operation and Maintenance, Sembanar Koil about the above fact and requested for revision of additional levy on the petitioner vide his letter dated 10.04.2023 in எண். உ.மி. பொ/இப/திருக்கடையூர்/கோ-தணிக்கை/க எண் /2023.

5.8 The Appellant has stated that however the 1st Respondent without considering the above facts and without taking into account the Petitioner's nature of business and his consumption pattern over the years, have rejected the representation made by the 2nd Respondent by his letter dated 28.03.2023 to the 2nd Respondent in எண். உ.மி.பொ/இப/திருக்கடையூர்/கோ-தணிக்கை/க எண் /2023. Consequently, the 2nd Respondent sent a demand notice (Impugned Notice) dated 30.08.2023 demanding a payment of Rs.4,62,401/-.

5.9 The Appellant has stated that as the Respondents coerced the petitioner to pay the excess demand or else will face disconnection, the petitioner paid an

amount of Rs.1,15,601/- by cheque no.862340 dated 18.11.2023 along with his regular bill, a sum of Rs.21,288/- by cheque no.862393 dated 21.12.2023 and another amount of Rs.1,15,601/- by cheque no.862321 dated 18.12.2023 totalling a sum of Rs.2,52,490/- towards the said excess bill. As the 2nd Respondent was further coercing to pay the balance arbitrary fixation of electricity charges, the Petitioner is filing this petition before this Hon'ble Forum for a Fair Justice.

5.10 The Appellant has stated that in his letter dated 20.06.2019 he only informed the 2nd Respondent about the non-functioning of meter. He also stated in the same letter that he will not be consuming electricity for next 3 months due to non-functioning of farm activities. But without considering the above facts the 1st Respondent arbitrarily levied the charges.

5.11 The Appellant has stated that delay in fixing new meter is mainly due to non-availability of appropriate electricity meter and Meter testing authority(MRT). Had the meter is fixed immediately after the Petitioner intimated about the non-functioning of meter, the present unjust burden would not be in the Petitioner's shoulder. However the 1st Respondent without considering these facts levied these abnormal charges arbitrarily. Hence this petition is filed for setting aside the demand raised in எண்.உமிபொ/ இப/ திருக்கடையூர்/ கோ-தணிக்கை/ க. எண்/2023 dated 30.08.2023.

5.12 The Appellant has prayed to set aside the demand arised in எண் உமிபொ/ இப/ திருக்கடையூர்/ கோ-தணிக்கை/க எண் /2023 issued by 2nd Respondent demanding Rs.4,62,401/- rework the charges during the lean period in line with the consumption pattern of previous years and direct the 2nd Respondent to refund the money coercively collected from the Petitioner amounting to Rs. 2,52,490/- and thus render justice.

6.0 Arguments of the Respondent:

6.1 The Respondent has stated that Thiru S.S.Sankar No. 31C, Pitari North Street Sirkazhi Mayiladuthurai - 609 110 for his electricity connection number (557-

004-488) is defective and demanded for payment of average electricity bill for the period 03/2019 to 06/2019 amounting to Rs.4,62,401/- He has also filed a petition seeking refund of Rs.2,52,490/- as the amount collected is a seasonal business.

6.2 The Respondent has stated that on 27.04.2019, when the electricity meter calculation was done, it was recorded that the permissible load was 61.5 and 16 kW was used more. On 10.05.2019 MD Regularization has been increased from 61.5 kW to 76 kW as additional load on the system. On 27.05.2019, 11 kW more than the permitted power load has been recorded in the computer during calculation.

6.3 The Respondent has stated that on 27.06.2019, 20kW more than the permissible power load has been recorded in the computer during calculation. On 27.07.2019 the meter has been recorded as Defective (Meter Burnt) while taking assessment. A new meter has been changed on 15.10.2019 (Meter Burnt without Final Reading). He also stated that on 10.05.2019 by new additional electricity consumer application no. 5570519213 Date: 10.05.2019 Additional Load registered and on 15.10.2019 the additional load has been transferred.

6.4 The Respondent has stated that 07/2019, 08/2019 and 09/2019 no inspection was taken by AE towards assessment on electricity consumption / low consumption and this was not recorded in computer by Assistant Electrical Engineer. Due to excess usage of load during 04/2019, 05/2019 and 06/2019 electricity meter is burnt. It is therefore informed that the amount calculated by the Audit Division is correct and no recommendation can be made as there are no reasonable grounds to cancel the amount.

7.0 Findings of the Electricity Ombudsman:

7.1 I have heard the arguments of both the Appellant and the Respondent. Based on the arguments and documents submitted by them, the following are the issues to be decided;

1. Whether the meter associated with the Appellant's service connection was defective during the period in question?

2. What is the regulatory directive of TNERC for calculating consumption during the meter defective period?

3. Is the Appellant's claim that he should not be charged for the defective meter period which is a non-productive season is tenable?

8.0 Findings on the first issue:

8.1 The Appellant contends that the demand for electricity charges amounting to Rs.4,62,401/- raised by the AE is unjust and excessive. The Appellant operates a coastal aquaculture farm, which has a seasonal pattern of electricity usage. From January to June, power consumption is high due to the use of aerators and water pumps, but during the lean period from July to September, the farm is largely non-operational, and only minimal lighting is required. In June 2019, the Appellant notified the authorities about the lean period and requested that the higher usage of load not be needed during this time. He also informed them that the electricity meter was not functioning and requested that only minimum charges be levied during the non-operational period.

8.2 During the disputed period (July 2019 to September 2019), the Appellant's electricity meter was defective, as confirmed by a Meter Relay test, making it impossible to retrieve accurate consumption data as the meter was burnt. Due to the non-operational period of the business and the defective meter, the Appellant argues that his electricity consumption during the disputed period was naturally lower.

8.3 The Respondent also mentions their efforts to retrieve the defective meter data from the Meter Relay Testing Lab but states that this was unsuccessful due to a display failure. Despite this, I am of the view that the Meter Relay Testing (MRT) report is valid evidence according to the Section 35 of the Evidence Act 1872 which is discussed below:

“35. Relevancy of entry in public record or an electronic record made in performance of duty. An entry in any public or other official book, register or record or an electronic record stating a fact in issue or relevant fact and made by a public servant in the discharge of his official duty or by any other person in performance of a duty

specially enjoined by law of the country in which such book, register or record or an electronic record is kept is a relevant fact.”

8.4 Based on the aforementioned details, it is apparent that an entry in any public or other official book, register, or record is admissible as evidence under the law of the country. Additionally, the MRT wing of the Licensee is authorized to determine the status of the meter after conducting a scientific test. It was noted in the consumer ledger that the assessment entry during 07/2019, 08/2019 and 09/2019 were recorded as defective and replaced with healthy on 15.10.2019. Further as per MRT report that the meter was burnt and the data could not be downloaded via CMRI because the meter's display had failed. During the hearing, the Appellant also accepted that the meter was defective. Therefore, it is concluded that the meter was indeed defective during the disputed period July 2019 to September 2019.

9.0 Findings on the second issue:

9.1 Considering that the meter in the Appellant's service connection was declared defective during the disputed period, I refer to Regulation 11 of the TNERC Supply Code, which was in force at the time. This regulation clearly stipulates that, in the event of a defective meter, any of the prescribed methods may be employed to determine the average consumption. The relevant section is referred to below.

“11. Assessment of billing in cases where there is no meter or meter is defective :

(1) Where supply to the consumer is given without a meter or where the meter fixed is found defective or to have ceased to function and no theft of energy or violation is suspected, the quantity of electricity supplied during the period when the meter was not installed or the meter installed was defective, shall be assessed as mentioned hereunder.

(2) The quantity of electricity, supplied during the period in question shall be determined by taking the average of the electricity supplied during the preceding four months in respect of both High Tension service connections and Low Tension service connections provided that the conditions in regard to use of electricity during the said four months were not different from those which prevailed during the period in question.

(3) In respect of High Tension service connections, where the meter fixed for measuring the maximum Demand becomes defective, the Maximum Demand shall be assessed by computation on the basis of the average of the recorded demand during the previous four months.

(4) Where the meter becomes defective immediately after the service connection is effected, the quantum of electricity supplied during the period in question is to be determined by taking the average of the electricity supplied during the succeeding

four months periods after installation of a correct meter, provided the conditions in regard to the use of electricity in respect of such Low Tension service connections are not different. The consumer shall be charged monthly minimum provisionally for defective period and after assessment the actual charges will be recovered after adjusting the amount collected provisionally.

(5) If the conditions in regard to use of electricity during the periods as mentioned above were different, assessment shall be made on the basis of any consecutive four months period during the preceding twelve months when the conditions of working were similar to those in the period covered by the billing.

(6) Where it is not possible to select a set of four months, the quantity of electricity supplied will be assessed in the case of Low Tension service connections by the Engineer in charge of the distribution and in the case of High Tension service connections by the next higher level officer on the basis of the connected load and the hours of usage of electricity by the consumer.”

9.2 The regulation clearly outlines the expectations and requirements for billing revisions during defective meter periods. Upon thorough examination of the aforementioned regulation, it is evident that Regulations 11(2), 11(4), 11(5), and 11(6) prescribe the procedures for computing the average consumption during the period of meter defect. In the present case, it is observed that the Respondent has adopted the provision of TNE Supply Code Regulation 11(2) for computing the energy charges for the defective period.

9.3 Furthermore, the Ombudsman is to decide on the appeal petition against the order of the CGRF. The CGRF must make a decision in accordance with TNERC Regulations for Consumer Grievance Redressal Forum 2004, Regulation 7(8), which is reproduced below:

“7. Grievance handling procedure for the forum:

xxx

xxx

xxx

(8) All decisions shall be taken by a majority of votes by the members present and in the event of the equality of the votes, the facts may be recorded and referred to the Electricity Ombudsman for final orders. All the members present shall sign every order passed by the forum. The decisions of the forum shall be strictly in accordance with the provisions of the Act, the rules and regulations made there under and in particular the Tamil Nadu Electricity Supply Code and the Tamil Nadu Electricity Distribution Code and the directions of the Commission and it is not open to the Members and the Chairperson of the Forum to deviate either expressly or impliedly from the provisions of the Act or the rules or regulations made there under or the Tamil Nadu Electricity Supply Code or the Tamil Nadu Electricity Distribution Code or the directions of the Commission while taking the decisions by the forum.”

9.4 As the Ombudsman is only an appellate authority for verifying the correctness of the CGRF's decision as per the above direction. Upon reviewing the arguments, it is evident that while the Appellant accepted the meter was defective, but he insisted rework the charges considering the lean period instead of 11(2). Further, the Appellant argued that he had given a letter dt. 20.06.2019 stating that he would not be using power for next three months and his firm is seasonal in nature. The Appellant further alleges that he was coerced into paying Rs.2,52,490/- under the threat of disconnection, despite the charges being unjustified. He requests that the demand notice dated 30.08.2023 be set aside and the electricity charges be recalculated based on the farm's actual usage during the lean period, in line with previous years' patterns and sought refund of the amount that has already paid.

9.5 The Respondent argued that such a letter dt. 20.06.2019 was not received from the Appellant. The Respondent argues that the Appellant's electricity meter was defective, and the demand for payment of Rs.4,62,401/- was based on average electricity consumption from March 2019 to June 2019. They contend that the calculation was necessary due to the excessive power load used by the Appellant. The Respondent highlights that, during the period in question, the permissible load was 61.5 kW, but the Appellant exceeded this limit multiple times. On 27th April 2019, the load used was 16 kW more than permitted. Subsequently, the load was regularized on 10th May 2019 to increase the permissible load to 76 kW, but further excess usage was recorded. For example, on 27th May 2019, the usage exceeded the permissible load by 11 kW, and on 27th June 2019, the excess MD was recorded as 20 kW.

9.6 The Respondent further notes that, by July 2019, the meter was identified as defective due to being burnt, which was recorded during the assessment time. A new meter was installed on 15th October 2019 to replace the burnt meter. The additional load requested by the Appellant was also registered and applied during this period. The Respondent contends that meter for the months of July, August, and September 2019 was defective. However, they argue that the meter was burnt as a result of excessive electricity usage, and the charges calculated by the audit

division are correct and justified. Further, the Respondent argued that the above load pattern shows that the Appellant's firm was not a seasonal one.

9.7 During the hearing, the Appellant was asked whether he has the copy of the letter dt. 20.06.2019 with acknowledgement as proof. But the Appellant has said he did not have the letter. As the Appellant did not produce the copy of letter, his argument for having given the intimation to the Respondent is not considered. However it is noticed that the Appellant claim for that the average calculation may be arrived based on the same period of the previous year could not be considered due to excess load recorded during 04/2019 – 77.34 KW, 05/2019 – 86.22 KW & 06/2019 – 95.10 KW over and above the sanctioned load. Further, it is noticed that meter was also burnt and become defective which substantiate the excess load and consumption in the service connection during the period of 09/2018 also. Therefore, it has been decided that the average computed by the Respondent is in order as per regulation 11(2) of TNE Supply Code. Hence, the claim of the Appellant is rejected.

10.0 Findings on the third issue:

10.1 Based on the finding on the second issue, the average shortfall worked out is correct as per the regulation 11(2) of TNE Supply Code Regulations for the above defective period found and hence the claim of the Appellant that he should not be charged for the defective meter period which is a non-productive season is rejected.

11.0 Conclusion:

11.1 In view of the above finding, the Appellant prayer to reimburse the already paid average shortfall amount during the meter defective period is rejected.

11.2 With the above findings the A.P. No. 56 of 2024 is finally disposed of by the Electricity Ombudsman. No Costs.

(N. Kannan)
Electricity Ombudsman

“நுகர்வோர் இல்லையேல், நிறுவனம் இல்லை”
“No Consumer, No Utility”

To

1. Thiru S.S. Sankar,
No. 31C, Pidari North Street,
Sirkali – 609 110, Mayiladuthurai District.

- By RPAD

2. The Executive Engineer/O&M/Sirkali,
Nagapattinam Electricity Distribution Circle,
TANGEDCO,
Thenpathi, Sirkali-609 110.

3. The Assistant Executive Engineer/O&M/Sembanarkovil,
Nagapattinam Electricity Distribution Circle,
TANGEDCO,
1, 46-5,Lathif Colony, Main Road,
Parasalur, Sembanarkovil - 603 309.

4. The Assistant Engineer/O&M/ Thirukadaiyur,
Nagapattinam Electricity Distribution Circle,
TANGEDCO,
2, 147,Tharangambadi Main Road,
Thirukadaiyur -609 311.

5. The Superintending Engineer,
Nagapattinam Electricity Distribution Circle,
TANGEDCO,
Satayiappar East Street, Nagapattinam-611 001.

- By Email

6. The Chairman & Managing Director,
TANGEDCO,
NPKRR Maaligai, 144, Anna Salai,
Chennai -600 002.

– By Email

7. The Secretary,
Tamil Nadu Electricity Regulatory Commission,
4th Floor, SIDCO Corporate Office Building,
Thiru-vi-ka Industrial Estate, Guindy,
Chennai – 600 032.

– By Email

8. The Assistant Director (Computer)
Tamil Nadu Electricity Regulatory Commission,
4th Floor, SIDCO Corporate Office Building,
Thiru-vi-ka Industrial Estate,Guindy,
Chennai – 600 032.

– **For Hosting in the TNERC Website**